

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Docket No. **CAA-08-2004-0009**

IN THE MATTER OF:)	
)	
Salt Lake Terminal Company)	COMPLAINT AND EXPEDITED
245 East 1100 North)	SETTLEMENT AGREEMENT ("CESA")
North Salt Lake, Utah 84054)	
)	
_____ Respondent.)	

A. JURISDICTION

1. This Complaint and Expedited Settlement Agreement ("CESA") is issued to Salt Lake Terminal Company ("Respondent") for violating section 111 of the Clean Air Act ("CAA"), 42 U.S.C. § 7411, Standards of Performance for New Stationary Sources, and its implementing regulations pertaining to bulk gasoline terminals found at 40 CFR Part 60, Subpart XX.
2. EPA is authorized to bring an action under section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), for civil administrative penalties against Respondent which has violated, or is in violation of, a requirement or prohibition of the rule.
3. The authority to issue the CESA has been delegated by the Administrator of the United States Environmental Protection Agency ("EPA" or "Complainant") to the Regional Administrator of EPA Region 8 and redelegated by the Regional Administrator to Carol Rushin, the Assistant Regional Administrator, Office of Enforcement, Compliance, and Environmental Justice, EPA Region 8.

B. ALLEGED VIOLATION

1. EPA alleges that Respondent is a "person" as defined in Section 7602(e) of the CAA, 42 U.S.C. § 7602(e) and an owner and operator of the North Salt Lake Terminal, a "bulk gasoline terminal" facility, as defined at 40 CFR § 60.501, located in North Salt Lake, Utah, subject to the requirements of section 111 of the CAA, 42 U.S.C. § 7411, and 40 CFR part 60.

2. Under section 111 of the CAA, 42 U.S.C. § 7411, and 40 CFR § 60.18(f)(4), owners or operators of bulk gasoline terminals that use open flares as control devices are required to determine the actual exit velocity of a flare by dividing the volumetric flow rate of gas being combusted as determined by Test Method 2, 2A, 2C, or 2D by unobstructed (free) cross-sectional area of the flare tip or obtain a waiver from EPA after successfully demonstrating an equivalent methodology.

3. Subsequent to Respondent's written request for clarification from EPA dated September 24, 2001, regarding the use of alternative monitoring requirements for an open, exposed flare, Respondent failed to obtain a waiver from EPA and failed to conduct the performance test to determine the actual exit velocity of the flare constituting a violation of section 111 of the CAA, 42 U.S.C. § 7411, and 40 CFR § 60.18(f)(4).

C. CIVIL PENALTY

1. Upon consideration of the nature, circumstances, extent and gravity of the violation and the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation, other matters as justice may require, and upon consideration of the entire record herein, EPA offers this CESA under its expedited enforcement procedures in order to settle the violation based upon the findings noted above, for the total civil penalty amount of **eighteen thousand dollars (\$18,000.00)**.

2. The Respondent signing below admits that EPA has jurisdiction over the subject matter alleged in the CESA, neither admits nor denies the factual allegations contained in the CESA, and consents to the assessment of the total civil penalty amount of eighteen thousand dollars (\$18,000.00).

3. Respondent consents and agrees that not more than 30 days after Respondent's receipt of a signed Final Order in this matter, Respondent shall pay a civil penalty in the amount of eighteen thousand dollars (\$18,000.00) by remitting a cashier's or certified check for that amount, payable to "Treasurer, United States of America," to:

Mellon Bank
EPA Region 8
(Regional Hearing Clerk)
P.O. Box 360859M
Pittsburgh, PA 15251

The check shall reference the name and address of Respondent's facility and the EPA docket number of this action.

4. A **copy of the cashier's or certified check** shall be sent simultaneously to:

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466

and

Brenda L. Morris (8ENF-L)
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

5. Respondent further agrees and consents that if Respondent fails to pay the penalty amount within 30 days of receipt of the Final Order, interest on the penalty amount shall accrue at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of fifteen dollars (\$15.00) shall be imposed after the first 30 days that the payment, or any portion thereof, is overdue, with an additional charge of fifteen dollars (\$15.00) imposed for each subsequent 30-day period until the payment due is made. In addition, a six percent (6%) per annum penalty shall be applied on any principal amount not paid within 90 days after receipt of the final order.

D. TERMS AND CONDITIONS

1. Upon completion of the Respondent's signing and submission of this CESA, and payment of the penalty amount, EPA will take no further action against the Respondent for the alleged violations of the CAA described in section B, above. EPA does not waive any enforcement action by EPA for any other past, present, or future violations under the CAA or any other statute.

2. Nothing in this CESA shall be construed as a waiver by EPA of its authority to

seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this CESA.

3. The undersigned representative of Respondent certifies that he is fully authorized to enter into the terms and conditions for this CESA and to bind the party he represents to the terms and conditions of this CESA.

4. The parties agree to submit this CESA to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.

5. Each party shall bear its own costs and attorneys fees in connection with this matter.

6. Respondent has the right to request a hearing on any material fact or on the appropriateness of the penalty contained in this CESA pursuant to 40 C.F.R. § 22.15. Upon signing and returning of this CESA to EPA, the Respondent waives the opportunity for a hearing pursuant to Section 554 of the Administrative Procedure Act, 5 U.S.C. §554.

7. This CESA, upon incorporation into a Final Order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this CESA. This CESA, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violation alleged in the CESA.

8. If the signed CESA is not returned in correct form by the Respondent to EPA at the above-referenced address, within 15 days of the date of the receipt of this CESA, the CESA is withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the violations identified in this CESA, including an Administrative Complaint against Respondent seeking penalties of up to \$27,500 per day of violation pursuant to section 113(d)(1) of the CAA, 42 U.S.C. §7413(d)(1).

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8, Office of Enforcement, Compliance
and Environmental Justice, Complainant.**

Date: 07/19/04

By: Eddie A. Sierra for/
CAROL RUSHIN
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Date: 7/19/04

By: SIGNED
Brenda L. Morris, Attorney
Legal Enforcement Program

**SALT LAKE TERMINAL COMPANY
Respondent.**

Date: 7/13/04

By: SIGNED
Karen L. Kennedy, Vice President, Salt Lake
Terminal Co.

(Printed or Typed Name of Signatory)

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMPLAINT AND EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter of **SALT LAKE TERMINAL COMPANY, DOCKET NO.: CAA-08-2004-0009** was filed with the Regional Hearing Clerk on July 20, 2004.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda L. Morris, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on July 20, 2004, to:

Steve Ellison
Conoco Phillips
600 North Dairy Ashford
ML 1096
Houston, Texas 77079-1175

July 20, 2004

SIGNED

Tina Artemis
Regional Hearing Clerk

THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON JULY 20, 2004.